

## **REMARKS**

### 1. Present Status of Patent Application

In response to the non-final office action dated February 28, 2005, Applicants respectfully request reconsideration based on the foregoing amendments and the following remarks. Applicants respectfully submit that the claims as presented are in condition for allowance.

### 2. Examiner Interview

Applicants first wish to express their sincere appreciation for the time that Examiner Duran spent with Applicants' Attorney, Charles Griggers, during a telephone discussion on March 23, 2005 regarding the outstanding Office Action and the cited references. During that conversation, Examiner Duran seemed to indicate that it may be potentially beneficial for Applicants to make the amendments herein, although additional examination of pertinent art would be required. Thus, Applicants respectfully request that Examiner Duran carefully consider this response and the amendments.

### 3. Response To Rejections of Claims 1-14 and 16-20 Under 35 U.S.C. § 103(a)

In the Office Action, claims 1-14 and 16-20 stand rejected under 35 U.S.C. § 103(a) as purportedly being obvious over *Bandera* (U.S. Patent No. 6,332,127) in view of *Goldhaber* (U.S. Patent No. 5,794,210). For a proper rejection of a claim under 35 U.S.C. Section 103, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

#### a. Claim 1

As provided in independent claim 1, Applicants claim:

1. A method for sending an advertisement to a user operating a wireless communication device, comprising:

***receiving first information about a current location of the user from a wireless service provider for the wireless communication device, wherein the current location is determined by monitoring the location of the wireless communication device as the wireless communication device is moved to at least one different location;***

searching a first database containing a plurality of location-specific advertisements;  
selecting a first one of the plurality of location-specific advertisements that is associated with the current location of the user, the current location being received from the wireless service provider; and  
sending the first one of the plurality of location-specific advertisements to the wireless communication device in the form of a first packet-based message over a communication network.

(Emphasis added).

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Bandera* in view of *Goldhaber* does not disclose, teach, or suggest at least the features of “receiving first information about a current location of the user from a wireless service provider for the wireless communication device, wherein the current location is determined by monitoring the location of the wireless communication device as the wireless communication device is moved to at least one different location” and/or “selecting a first one of the plurality of location-specific advertisements that is associated with the current location of the user, the current location being received from the wireless service provider,” as recited in claim 1.

Rather, *Bandera* discloses a system whereby location information of a mobile Web client is ascertained from communication between the mobile Web client and a Web server. Col. 6, lines 43-67. As such, *Bandera* fails to at least disclose, teach, or suggest the feature of “receiving first information about a current location of the user from a wireless service provider.” Likewise, *Goldhaber* fails to cure the inadequacies of the *Bandera* reference, and the rejection of claim 1 should be withdrawn, for at least this reason.

b. Claims 2-12

Because independent claim 1 is allowable over the cited art of record, dependent claims 2-12 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that dependent claims 2-12 contain all the steps and features of independent claim 1. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988). Additionally and notwithstanding the foregoing reasons for allowability of claims 2-12, claims 2-12 recite further features and/or

combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record.

c. Claim 13

As provided in independent claim 13, Applicants claim:

13. A method of sending an advertisement over a communication network to a user operating a wireless communication device, comprising:  
***receiving first information about a current location of the user from a wireless service provider for the wireless communication device, the current location being routinely monitored;***  
receiving second information about the identity of the user;  
searching a database containing a plurality of location-specific advertisements, wherein the plurality of location-specific advertisements are stored in a format selected from the group consisting of at least a digital audio format and a digital text format;  
***selecting one of the plurality of location-specific advertisements based on one or more criteria pre-selected by the user and the current location of the user; and***  
routinely sending the one of the plurality of location-specific advertisements to the wireless communication device over the communication network without transmitting the identity of the user therewith.

(Emphasis added)

Applicants respectfully submit that independent claim 13 is allowable for at least the reason that *Bandera* in view of *Goldhaber* does not disclose, teach, or suggest at least the features of “receiving first information about a current location of the user from a wireless service provider for the wireless communication device, the current location being routinely monitored” and/or “selecting one of the plurality of location-specific advertisements based on one or more criteria pre-selected by the user and the current location of the user,” as recited in claim 13.

Rather, *Bandera* discloses a system whereby a location information of a mobile Web client is ascertained from communication between the mobile Web client and a Web server. Col. 6, lines 43-67. As such, *Bandera* fails to at least disclose, teach, or suggest the feature of “receiving first information about a current location of the user from a wireless service provider.” Likewise, *Goldhaber* fails to cure the inadequacies of the *Bandera* reference, and the rejection of claim 13 should be withdrawn, for at least this reason.

d. Claims 14 and 16-20

Because independent claim 13 is allowable over the cited art of record, dependent claims 14 and 16-20 (which depend from independent claim 13) are allowable as a matter of law for at least the reason that dependent claims 14 and 16-20 contain all the steps and features of independent claim 13. Additionally and notwithstanding the foregoing reasons for allowability of dependent claims 14 and 16-20, claims 14 and 16-20 recite further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Accordingly, the rejection of claims 14 and 16-20 should be withdrawn.

4. Response To Rejection of Claims 15 Under 35 U.S.C. § 103(a)

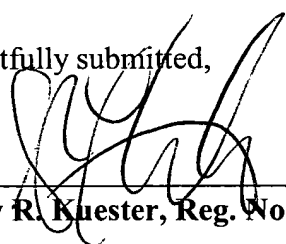
In the Office Action, claim 15 stands rejected under 35 U.S.C. § 103(a) as purportedly being obvious over *Bandera* in view of *Goldhaber* in further view of *Bergh* (U.S. Patent No. 6,112,186). For a proper rejection of a claim under 35 U.S.C. Section 103, the cited combination of references must disclose, teach, or suggest, either implicitly or explicitly, all elements/features/steps of the claim at issue. *See, e.g., In Re Dow Chemical*, 5 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1988), and *In re Keller*, 208 U.S.P.Q. 871, 881 (C.C.P.A. 1981).

Because independent claim 13 is allowable over the cited art of record, dependent claim 15 (which depends from independent claim 13) is allowable as a matter of law for at least the reason that dependent claim 15 contains all the steps and features of independent claim 13. Additionally and notwithstanding the foregoing reasons for allowability of dependent claims 15, claim 15 recites further features and/or combinations of features (as is apparent by examination of the claims themselves) that are patentably distinct from the cited art of record. Accordingly, the rejection of claim 15 should be withdrawn.

### **CONCLUSION**

For at least the reasons set forth above, Applicants respectfully submit that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 1-20 are in condition for allowance. For any statements in the Office Action that are not explicitly referenced in this response, Applicants do not intend to admit the validity of such statements by not having addressed them herein. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned agent at (770) 933-9500.

Respectfully submitted,



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Jeffrey R. Kuester, Reg. No. 34,367

**THOMAS, KAYDEN,**  
**HORSTEMEYER & RISLEY, L.L.P.**  
Suite 1750  
100 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500